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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,898	02/13/2004	Norbert Rilitz	P24886	6098
7055	7590	01/06/2006		
GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			EXAMINER ADAMS, GREGORY W	
			ART UNIT	PAPER NUMBER

3652

DATE MAILED: 01/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/777,898	RILITZ ET AL.	
	Examiner	Art Unit	
	Gregory W. Adams	3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 35 and 36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34, 37 and 38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2/13/04 &amp; 12/13/04</u> .  | 6) <input type="checkbox"/> Other: ____                                     |

**DETAILED ACTION**

***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-34, 37 & 38 drawn to a device for stacking, classified in class 414, subclass 796.
- II. Claims 35 & 36, drawn to a method of changing stacks, classified in class 414, subclass 801.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case Invention I could be employed to feed panels to a panel saw machine as in US 6,481,954 to Benuzzi.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

A telephone call was made to Applicant's representative Mr. Neil F. Greenblum on November 9, 2005 to request an oral election to the above restriction requirement, but did not result in an election being made.

During a telephone conversation with Mr. Neil F. Greenblum on November 9, 2005 a provisional election was made with traverse to prosecute invention I, claims 1-34 & 37-38.

Claims 35-36 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention II, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the phone call of November 9, 2005. Applicant argued that the claims were not restrictable because claim 36 and claim 37 depended from claim 1. Claims 36 & 37 are independent claims written in approved shorthand format. This format is permitted so applicant would not have to reiterate all the structure of the other claims. Therefore, they are not considered dependent claims and do not rely on the other claims for patentability. Thus, the restriction is deemed proper.

Affirmation of this election must be made by applicant in replying to this Office action. Claim 35 & 36 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### ***Claim Objections***

Claim 1 is objected to because of the following informalities: With respect to line 10, "stack" should be preceded by the word —collected—and with respect to lines 12,

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13, 14 & 15, "stack" should be preceded by the word --pre-collected--. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 8-16, 31-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Voss (US 5,664,767) in view of Meschi (US 5,292,223) (cited by applicant) and Deutschle et al. (US 20020084578) (cited by applicant).

With respect to claims 1, 8-16 & 31-32, Voss discloses a pallet, separating element 16, a holding device, 12 (or 11), separating table 8, forward guiding device 10, and rear guiding device 12.

Voss does not disclose holding elements arranged on a first crossbeam. Deutschle et al. discloses holding elements in a first beam 52 such that upon separation between a collected stack and a pre-collected stack, a next sheet for a pre-collected stack will be drawn to a separating element 28. Deutschle further discloses a first crossbeam that moves vertically and horizontally, simultaneously with separating elements such that a separating table may be inserted. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Voss to include a holding element, as per the teachings of

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Deutschle et al., such that during continuous stacking a pre-collected stack first sheet is attracted to a separating element.

Voss does not comprise vertically movable guides. Meschi discloses telescoping guides 20 such that not just the most irregularly stacked paper-sheets may be aligned but all sheets. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the guides of Voss to include movable guides (i.e. structure which provides movement), as per the teachings of Meschi, to align both minor stacking alignment errors and major alignment error.

With respect to claims 2-4, Voss is adapted to handle paper, cardboard, foil, flexible material and rigid material from a cutter delivered on a feed belt.

With respect to claim 7, Voss discloses a planar separating table.

With respect to claims 33-34, Voss disclose high rigidity and modular arrangement.

3. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Voss (US 5,664,767) in view of Meschi (US 5,292,223), Deutschle et al. (US 20020084578) and Williams (US 2,957,691).

With respect to claim 6, Voss does not disclose a detector. Williams discloses a detector 60 to impart a tap or thrust to sheets whereby engagement of the same with a guide and create even piling. Col. 6. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Voss' rear stops to include a detector, as per the teachings of Williams, to create even piling. It is

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noted that while Williams discloses a front stop having detector, the function of even piling applies to Voss' rear stops as well.

4. Claims 17-28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Voss (US 5,664,767) in view of Meschi (US 5,292,223) and Deutschle et al. (US 20020084578) and Thornton (US 4,162,649).

With respect to claim 17, Voss does not disclose a second crossbeam. Thornton discloses a first crossbeam 53 and a second crossbeam (indicated generally in FIG. 8 as reference character 6), with rails tying said crossbeams to keep successive sheets vertical, or nearly vertical during stacking and subsequent insertion of a separation table 53 between collected and pre-collected stacks. Col. 1-2. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Voss to include a second cross beam, as per the teachings of Voss, to keep stacks vertical during stacking and separation.

With respect to claim 18-26, Voss does not comprise vertically movable guides. Meschi discloses telescoping guides 20 such that not just the most irregularly stacked paper-sheets may be aligned but all sheets. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the guides of Voss to include movable guides (i.e. structure which provides movement), as per the teachings of Meschi, to align both minor stacking alignment errors and major alignment error.

With respect to claim 27-28, Voss does not disclose a moving first crossbeam. Deutschle et al. discloses a first crossbeam that moves "downward in the direction of

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arrow 74 [or 92]...simultaneously with downward movement of the stack separating finger 26..." as well as in a travel direction such that a separating table may be properly inserted between a collected stack and a pre-collected stack. Cols. 1-2; Col. 10.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Voss to include a movable first crossbeam, as per the teachings of Deutschle et al., for proper separating table insertion.

5. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Voss (US 5,664,767) in view of Meschi (US 5,292,223) and Deutschle et al. (US 20020084578).

Voss discloses a pallet, a movable separating fingers 16, holding device 11, movable separating device 8, forward guiding device 10, and rear guiding device 12 which is adapted to stack sheets of paper, cardboard, foil, flexible material and rigid material from a cutter delivered on a feed belt.

Voss does not disclose holding elements arranged on a first cross-member. Deutschle et al. discloses holding elements in a first cross member 52 such that upon separation between a collected stack and a pre-collected stack, a next sheet for a pre-collected stack will be drawn to a separating element 28. Deutschle further discloses a first cross-member that moves vertically and horizontally, simultaneously with separating elements such that a separating table may be inserted. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Voss to include a holding element, as per the



teachings of Deutschle et al., such that during continuous stacking a pre-collected stack first sheet is attracted to a separating element.

Voss does not comprise vertically movable guides. Meschi discloses movable guiding devices such that not just the most irregularly stacked paper-sheets may be aligned but all sheets. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the guides of Voss to include movable guiding devices (i.e. structure which provides movement), as per the teachings of Meschi, to align both minor stacking alignment errors and major alignment error.

6. Claims 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Voss (US 5,664,767) in view of Meschi (US 5,292,223) and Deutschle et al. (US 20020084578) and Thornton (US 4,162,649).

Voss discloses a movable separating fingers 16, movable separating device 8, and forward 10 and rear guiding devices 12 which is adapted to stack sheets of paper, cardboard, foil, flexible material and rigid material from a cutter delivered on a feed belt.

Voss does not disclose support elements arranged on a first cross-member. Deutschle et al. discloses support elements in a first cross member 52 such that upon separation between a collected stack and a pre-collected stack, a next sheet for a pre-collected stack will be drawn to a separating element 28. Deutschle further discloses a first cross-member that moves vertically and horizontally, simultaneously with separating elements such that a separating table may be inserted. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Voss to include a holding element, as per the

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teachings of Deutsche et al., such that during continuous stacking a pre-collected stack first sheet is attracted to a separating element.

Voss does not comprise vertically movable guides. Meschi discloses movable guiding devices such that not just the most irregularly stacked paper-sheets may be aligned but all sheets. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the guides of Voss to include movable guiding devices (i.e. structure which provides movement), as per the teachings of Meschi, to align both minor stacking alignment errors and major alignment error.

Voss does not disclose guide devices connecting a first cross-member and a second cross-member. Thornton discloses a first cross-member 53 and a second cross-member (indicated generally in FIG. 8 as reference character 6), with rails tying said cross-members to keep successive sheets vertical, or nearly vertical during stacking and subsequent insertion of a separation table 53 between collected and pre-collected stacks. Col. 1-2. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Voss to include guide devices connecting a first cross-member and a second cross-member, as per the teachings of Voss, to keep stacks vertical during stacking and separation.

***Allowable Subject Matter***

Claims 29-30 are allowed.

***Conclusion***


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W. Adams whose telephone number is (571) 272-8101. The examiner can normally be reached on M-Th, 8:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GWA



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